

Claim 1 recites, inter alia, the following:

“A control device for controlling a system, comprising:

a plurality of activatable modules . . .

a priority manager modifying the respective corresponding priority value of each of at least one of the activatable modules individually.” (Emphasis added.)

The Examiner states that the Bergstrom reference discloses a plurality of activatable modules with corresponding priority values, a scheduler and a priority manager modifying the corresponding priority values of at least one of the modules. The Examiner therefore contends that the Bergstrom reference anticipates claims 1 and 12.

To anticipate a claim under § 102, a single prior art reference must identically disclose each and every claim element. See Lindeman Maschinenfabrik v. American Hoist and Derrick, 730 F.2d 1452, 1458 (Fed. Cir. 1984). If any claimed element is absent from a prior art reference, it cannot anticipate the claim. See Rowe v. Dror, 112 F.3d 473, 478 (Fed. Cir. 1997).

In the Office Action, the Examiner cites to the Bergstrom reference, at page 8, line 17, in order to support the contention that the Bergstrom reference discloses a priority manager modifying the corresponding priority value of at least one of the modules. Contrary to the Examiner’s contentions, the Bergstrom reference does not disclose a priority manager as recited in the claim 1. The Bergstrom reference, at page 8, line 17, states that a scheduler coordinates the priority between the different evaluation routines to be run by the respective DF modules in order to ensure that as many evaluation routines as possible can be completed. The scheduler described in the Bergstrom reference merely coordinates the priority between the evaluation routines that may function on various systems and components in order to ensure proper timing of these routines. The Examiner has erroneously equated the DF scheduler of the Bergstrom reference with the priority manager recited in claim 1. The

scheduler of the Bergstrom reference does not modify any respective priority values for either the evaluation routines or the DF modules. The assigned priority values described in the Bergstrom reference remain fixed, contrary to the priority manager feature recited in claim 1. As one may ascertain upon reviewing the additional description of the DF scheduler in the Bergstrom reference, the DF scheduler requires information from a scheduler table which contains a priority level for the evaluation routines. (Bergstrom reference, p. 15, ll. 1-15). The DF scheduler of the Bergstrom reference also contains a priority handler which only reads the priorities values within the scheduler table. (Bergstrom reference, p. 20, ll. 4-15). The Bergstrom reference simply does not describe any type of modification of any priority values associated with the evaluation routines or DF modules.

Accordingly, it is submitted that the Bergstrom reference does not disclose every feature recited in claim 1, and therefore the Bergstrom reference does not anticipate claim 1. Claims 8 and 12 also contain a similar feature which involves modifying respective priority values as recited in claim 1. Claim 3 depends from claim 1; claim 9 depends from claim 8; and claims 14, 17 and 18 depend from claim 12. Therefore, the Bergstrom reference does not anticipate claims 3, 8, 9, 14, 17 and 18 for at least the same reasons as stated in regard to claim 1.

Accordingly, claims 1, 3, 8, 9, 12, 14, 17 and 18 stand allowable, and withdrawal of the rejection under 35 U.S.C. § 102(a) is requested.

Claims 2, 4, 13 and 15 stand rejected under 35 U.S.C. § 103 as being obvious over the Bergstrom reference in view of U.S. Patent No. 4,787,041 to Yount (the "Yount reference"). For a claim to be rejected for obviousness under 35 U.S.C. § 103, the prior art must teach or suggest each element of the claim, and it must also suggest combining the elements in the manner contemplated by the claim. See Northern Telecom, Inc. v. Datapoint Corp., 908 F.2d 931, 934 (Fed. Cir. 1990), cert. denied, 111 S. Ct. 296 ; and In re Bond, 910 F.2d 831, 834

(Fed. Cir. 1990). Claims 2 and 4 depend from claim 1. Claims 13 and 15 depend from claim 12. Accordingly, the arguments presented above in connection with claims 1 and 12 and the Bergstrom reference apply equally to claims 2, 4, 13 and 15. The Yount reference does not cure the deficiencies of the Bergstrom reference. Although the Yount reference suggests that an access problem is solved by a waiting period, there is no suggestion that priority values of modules are changed. Thus, for at least the same reasons as presented above, the Bergstrom reference and the Yount reference, either individually or in combination, fail to render claims 2, 4, 13 and 15 obvious. Withdrawal of the rejection of claims 2, 4, 13 and 15 under 35 U.S.C. § 103 is therefore requested.

Claims 5, 6, 10, 11, 19 and 20 stand rejected under 35 U.S.C. § 103 as being obvious over the Bergstrom reference in view of U.S. Patent No. 4,653,003 to Kirstein (the "Kirstein reference"). Claims 5 and 6 depend from claim 1. Claims 10 and 11 depend from claim 8. Claims 19 and 20 depend from claim 12. Accordingly, the arguments presented above in connection with claims 1, 8 and 12 and the Bergstrom reference apply equally to claims 5, 6, 10, 11, 19 and 20. The Kirstein reference does not cure the deficiencies of the Bergstrom reference: Kirstein simply does not address changing of priority values of modules. Thus, for at least the same reasons as presented above, the Bergstrom reference and the Kirstein reference, either individually or in combination, fail to render claims 5, 6, 10, 11, 19 and 20 obvious. Withdrawal of the rejection of Claims 5, 6, 10, 11, 19 and 20 under 35 U.S.C. § 103 is therefore requested.

Claims 7 and 16 stand rejected under 35 U.S.C. § 103 as being obvious over the Bergstrom reference in view of U.S. Patent No. 5,563,452 to Kephart (the "Kephart reference"). Claims 7 and 16 depend from claims 1 and 12, respectively. Accordingly, the arguments presented above in connection with claims 1 and 12 and the Bergstrom reference apply equally to claims 7 and 16. The Kephart reference does not cure the deficiencies of the

Bergstrom reference. Although Kephart discloses a radio module being activated depending on a preselected time, there is no suggestion regarding changing of priority values. Thus, for at least the same reasons as presented above, the Bergstrom reference and the Kephart reference, either individually or in combination, fail to render claims 7 and 16 obvious. Withdrawal of the rejection of claims 7 and 16 under 35 U.S.C. § 103 is therefore requested.

CONCLUSION

In light of the foregoing, the Applicants respectfully submit that all of the pending claims 1-20 are in condition for allowance. Prompt reconsideration and allowance of the present application are therefore earnestly solicited.

The Office is authorized to charge any fees associated with this Amendment to Kenyon & Kenyon Deposit Account No. 11-0600.

Respectfully submitted,
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